

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHEET METAL WORKERS' LOCAL UNION
NO. 80 PENSION TRUST FUND, et al.,

Plaintiff,

No. 06-CV-13201

v.

Hon. John Corbett O'Meara

C3 MECHANICAL, INC., *et al.*,

Defendants.

_____/

ORDER OF PARTIAL DIMISSAL AS TO COUNT II

On July 14, 2006, Plaintiff filed its complaint, which sets forth two counts: breach of a collective bargaining agreement brought under 29 USC §186, and a claim under MLCA §§ 570.151, *et seq.*, and 29 § USC 1109(a) ("ERISA") to hold fiduciary Christopher E. Porter personally liable for the disputed amount.

Count I and Count II, to the extent it arises out of ERISA, of Plaintiff's complaint are cognizable in this court pursuant to 28 U.S.C. § 1331. Count II arises in part, however, under state law. Pursuant to 28 U.S.C. § 1367(c), a district court may decline to exercise supplemental jurisdiction over state law claims raised in federal question cases. See United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994). Because Plaintiff does not assert diversity jurisdiction under 28 U.S.C. § 1332, this court declines to exercise supplemental jurisdiction over the elements of Count II based on state law.

Accordingly, it is hereby **ORDERED** that, to the extent it arises out of state law, Count II of Plaintiff's Complaint is **DISMISSED**.

Date: August 07, 2006

s/John Corbett O'Meara
United States District Judge

Certificate of Service

I hereby certify that a copy of this Order was served upon the attorneys and/or parties of record by electronic means or U. S. Mail on August 07, 2006.

s/William J. Barkholz
Courtroom Deputy Clerk